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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 000210

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STATE FOR NEA-I, EEB

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SUBJECT: PM'S ADVISOR SAYS POLITICAL WILL NEEDED TO PASS
HYDROCARBONS LEGISLATION

REF: 2007 BAGHDAD 4090

Classified By: Acting Economic Minister Todd Schwartz for Reasons 1.4 (b) and (d)

¶1. (C) SUMMARY: Dr. Thamir Ghadban, Prime Minister Nouri al-Maliki's chief advisor on oil and hydrocarbons legislation, told Under Secretary Reuben Jeffery that political will is needed to agree on the draft hydrocarbon framework law (HFL). Ghadban enumerated six issues that he believes have stifled negotiations, laying the fault at the feet of the Kurdistan Regional Government (KRG). A career oil man, Ghadban lamented that Iraq was missing a golden opportunity in the present price environment to increase oil production and exports by passing legislation that would facilitate investment in the sector. He also said that, given the impasse, the GOI Ministry of Oil (MoO) was increasingly interested in signing technical service agreements with international companies under Iraq's existing Saddam-era hydrocarbons legislation. The requisite political will to finalize a HFL is unlikely to materialize until the parties involved genuinely believe that the long-term benefits of passing a new law outweigh the short-term costs of making the painful political compromises necessary to reach an agreement. END SUMMARY.

TECHNICAL TALKS ARE SENSELESS

¶2. (C) On January 16 Ghadban discussed with U/S Jeffery and Econoffs the present state of negotiations between the GOI and the KRG on the HFL, a version of which is pending in the CoR awaiting consensus in the GOI on what text to move forward. U/S Jeffery asked Ghadban whether it made sense for Ghadban and KRG Minister of Natural Resources Dr. Ashti Hawrami to get together, take one of the several existing drafts of the HFL, isolate the specific provisions about which the parties disagree, and work out mutually acceptable language step by step. Ghadban replied in the negative. Describing himself as "objective, not pessimistic," he said that absent the political will to agree on any version of the HFL, such talks would be in vain. With political will at the top, however, he said reaching an agreement would be relatively straightforward.

BLAME THE KRG

¶3. (C) Ghadban enumerated six issues that would need to be addressed before meaningful negotiations could proceed. First, the GOI and KRG would need to find a mutually

acceptable way to deal with production sharing agreements (PSAs) the KRG signed with international oil companies (IOCs) after the KRG agreed in February 2007 to desist doing so until the HFL was approved. (NOTE: Minister of Oil Hussein al-Shahristani and other GOI officials have said such contracts are illegal, null, and void; Shahristani has also written to several of the IOC signatories advising them not to anticipate participating in Iraq's oil sector in the future. The KRG, on the other hand, asserts that they waited more than a reasonable amount of time and warned the GOI that they would proceed with contracts if the government did not move on the legislation. END NOTE.) Moreover, Ghadban opined that a recent agreement among the leading political blocs had strengthened the MoO's position on this point. Second, and related, Ghadban said

that the KRG would need to recognize that it had no right to sign PSAs with IOCs covering exploration blocs in so called "disputed territories," outside of the recognized Kurdistan Region.

14. (C) Ghadban's list continued with several more general complaints. Third, the KRG would need to coordinate better with the MoO regarding petroleum sector operations in Kurdistan: Ghadban cited the KRG's supplanting a MoO contract to procure equipment for the Kormor gas field with the KRG's own agreement with Dana Gas. Fourth, the KRG would have to stop its "propaganda" against Minister Shahristani and stop, for example, calling for his resignation. "This is no way to do business," he said. Fifth, the KRG would need to amend its regional oil and gas law to reconcile it with Iraq's Constitution. Ghadban argued that, inconsistent with Constitution Article 112, several clauses of the Kurdish law purport to give the KRG the lead role, versus the federal government, in developing the region's hydrocarbons fields.

BAGHDAD 00000210 002 OF 002

Sixth and last, the KRG could not dictate to the GOI what to do in the oil and gas sector countrywide. Here, Ghadban focused on the KRG's predilection for PSAs. Ghadban said that, while he is not personally prejudiced against PSAs, popular memory of Iraq's checkered history with international firms had created certain political sensitivities to which the GOI had to respond. The KRG's insistence that Iraq sign PSAs, as opposed to service agreements, with IOCs failed to recognize these political pressures and lacked flexibility. Ghadban summed up the list stating that a KRG hard line on any of these issues would effectively preclude agreement on the HFL.

15. (C) Ghadban was similarly jaundiced about the prospects for the revenue management law (RML). "How could the CoR pass the RML unless it were integrated into the federal budget process?" he asked rhetorically, referring obliquely to the KRG's refusal to support a law that grants to the GOI Ministry of Finance the power and responsibility to distribute the KRG's share of hydrocarbons revenues. The current draft RML, he acknowledged, gives the central government complete control over revenues. (NOTE: The GOI has been providing the KRG with its agreed share of oil revenues in the absence of a law, but the 17 percent share has become an issue in the current budget law as some lawmakers see it as too high. END NOTE.)

GOI IS MORE EAGER TO PRESS AHEAD UNDER EXISTING LAWS

16. (C) Given the divide between the GOI and the KRG on these and other issues, Ghadban said that the central government was increasingly eager to sign technical service agreements with IOCs under Iraq's existing Saddam-era hydrocarbons laws. Ghadban said that with service agreements with firms to improve Iraq's petroleum infrastructure, technology, management and technical skills, Iraq could increase production by 500,000 barrels per day in two years. U/S Jeffery expressed concern that, if the GOI moved ahead under

the existing legislation, the world's top-tier contractors would be unlikely to bid on jobs and that it would cost the GOI a risk premium in the contracts. Ghadban agreed that it would be preferable to have a new law but said that PM Maliki wants to move forward.

COMMENT

¶17. (C) Ghadban's remarks evidence a hardening of the GOI position on the HFL, a development similarly seen on the KRG side (reftel). The GOI and the KRG have fundamentally different visions for Iraq's petroleum sector, particularly regarding the respective roles for the central government and the regions in managing it. The GOI sees existing and envisaged central government institutions--e.g., the Federal Oil and Gas Council (FOGC) foreseen in the HFL, the MoO, the yet to be created Iraq National Oil Company (INOC), and the Ministry of Finance--essentially controlling the sector and its revenues nationwide while carving out a narrow role for the KRG to manage, in cooperation with the federal authorities, fields located in Kurdistan and not assigned to the INOC. The KRG, for its part, sees the FOGC as a coordinating body through which the KRG would influence central government plans for the sector at national level, while it manages semi-autonomously all fields in Kurdistan not specifically assigned to the INOC. The missing "political will" to which Ghadban refers is the will for either side to compromise on its fundamental vision. Until the parties genuinely believe that the long term benefits they will reap from passing new laws outweigh the short-term political costs of compromising their vision, the necessary will to pass hydrocarbons legislation will not materialize. Proponents of the legislation must therefore make the cost-benefit case to GOI and KRG leaders, because until such will materializes the parties' negotiators will not likely hold fruitful talks over the language of particular clauses in the draft laws where their respective visions clash most acutely.

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